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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,529	12/20/2001	Michael M. Kinahan	A887952US	2181

7590 06/08/2006

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EXAMINER
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JAIN, RAJ K

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/022,529	<b>Applicant(s)</b> KINAHAN ET AL.	
	<b>Examiner</b> Raj K. Jain	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 25-36,38-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-36,38-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Applicant has misnumbered the claims as 25-43, claim 37 is missing:

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-36, 38-43 are rejected under 35 U.S.C. 102(anticipated) as being  
Haartsen et al by US006091954A .

Regarding claims 25, 35 and 43, Haartsen discloses a method and apparatus for providing a supplementary channel in a wireless system (Fig. 1, channel selection from a set of pre-allocated channels to choose from allows for providing a supplementary channel within a wireless system.) comprising the steps of:

identifying available resources at a plurality of channel element modules (CEM) in a base station (see Fig. 2, the base station 201 serves as the CEM, which shows a pool of channels as available resources to choose from.);

pre-allocating the available resources in a plurality of supplementary channels at a channel resource pool module (CRP) in the base station (see Fig. 2, col 7 lines 17-35, a CRP 201 has a set of pre-allocated channels to choose from based on a set of reuse

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plans, each reuse plan has number of channels to choose from and therefore have a plurality of supplementary channels.);

receiving a request for an additional bandwidth at the CRP and matching the request with a member of the plurality of the supplementary channels pre-allocated at the CRP (see col 6 lines 10-45, each mobile unit is assigned an initial bandwidth allocation based on its bit rate requirements and link quality parameters. As the demand for bit rate increases (bandwidth) by the mobile, the base station evaluates the request to maintain link quality while providing the increased demand by the mobile.);

and assigning the supplemental channel to the request (see col 7 lines 37-63, once a base station with the required quality of the mobile is determined, the allocation of channel from the available channels is assigned, see Fig. 3.).

Regarding claims 26, 27, 32, 38 Haartsen discloses receiving and matching of available resources at the base station and splitting the resources into supplementary channels (see Fig. 2, col 3 lines 40-53, Fig. 2 shows reuse plans with number of channels within each plan and thus providing a supplementary channel for each mobile.).

Regarding claims 28, 30, 34, 40, Haartsen discloses defining capacity in terms of bit rate and link quality (see col 6 lines 10-20), the direction of operation of supplementary channels is determined by the request from the mobile station based on required bit rate (see col 6 lines 20-43.).

Regarding claims 29, 33, 41, Haartsen discloses maintaining a database of available channels associated with each base station (see col 8 lines 59-63.). The

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channels have status and location information based on the reuse plan as being highest reuse or lowest reuse (see Fig. 2) and mobiles service type (see col 8 lines 63-67.).

Regarding claim 36, Haartsen discloses a general channel pool (see Fig. 2) which receives the request from subsystems A-D acting as separate control modules.

Regarding claim 39, Haartsen discloses an allocation module 201 (see Fig. 2) with pre-allocated channels (channel pool within 201.).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haartsen et al by (US006091954A) in view of Jabbarnezhad (5734697).

Haartsen discloses channel assignment technique in a wireless mobile communications system.

Haartsen fails to disclose a RAC within the wireless system.

Jabbarnezhad discloses use of RAC within a telecom system (see Fig. 9b, col 7 line 55-67.). The resource allocation command is used based on network performance index to reroute network traffic when performance is degraded.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Jabbarnezhad within Haartsen in order to maintain network

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link quality a resource allocation command is implemented so as reroute traffic to maintain desired network performance.

### ***Response to Arguments***

Applicant's arguments with respect to claims 25-36, 38-43 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj Jain whose telephone number is 571-272-3145.

The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

RJ  
June 1, 2006

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
6/2/06